



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2018-0809; FRL-9998-71-Region 10]

Air Plan Approval; AK: Adoption Updates and Permitting Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Alaska State Implementation Plan (SIP) submitted on October 25, 2018. The revisions adopt changes to federal emissions factors and modeling guidelines, update pre-construction permitting of stationary sources, and fix typographical and grammatical errors. The EPA is also approving the submitted revisions as meeting major source pre-construction permitting requirements for the Fairbanks North Star Borough fine particulate matter nonattainment area. On the effective date of this rule, the Alaska SIP will include provisions for electronic permit applications, online notice of draft permits, revised modeling guidelines, and updated fine particulate matter requirements in nonattainment areas.

DATES: This final rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2018-0809. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at

<https://www.regulations.gov>, or please contact the person listed in the FOR FURTHER

INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kristin Hall (15-H13), EPA Region 10, Air and Radiation Division, 1200 Sixth Avenue (Suite 155), Seattle WA, 98101, at (206) 553-6357 or hall.kristin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, it means the EPA.

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I. Background

On October 25, 2018, Alaska submitted revisions to the Alaska SIP for approval by the EPA. The submission includes revisions to Alaska Administrative Code, Title 18, Environmental Conservation, Chapter 50, Air Quality Control (18 AAC 50), state effective September 15, 2018. We proposed to approve the submitted revisions on June 11, 2019 (84 FR 27049). An explanation of the Clean Air Act requirements, a detailed analysis of the submission, and our reasons for proposing approval were provided in the proposal and will not be restated here. The public comment period for the proposal ended on July 11, 2019. We received no comments.

II. Final Action

The EPA is approving, and incorporating by reference, revisions to the Alaska SIP submitted on October 25, 2018. We are also approving the submitted revisions as fulfilling nonattainment new source review requirements that were triggered upon reclassification of the

Fairbanks North Star Borough fine particulate matter nonattainment area from “moderate” to “serious” on May 10, 2017 (82 FR 21711). On the effective date of this rule, the Alaska SIP will contain the following rule sections, state effective September 15, 2018:

- 18 AAC 50.025 *Visibility and Other Special Protection Areas*;
- 18 AAC 50.035 *Documents, Procedures, and Methods Adopted by Reference*, except (a)(6), (a)(9), and (b)(4);
- 18 AAC 50.040 *Federal Standards Adopted by Reference*, except (a), (b), (c), (d), (e), (g), (j), and (k);
- 18 AAC 50.055 *Industrial Processes and Fuel-Burning Equipment*, except (d)(2)(B);
- 18 AAC 50.215 *Ambient Air Quality Analysis Methods*, except (a)(4);
- 18 AAC 50.220 *Enforceable Test Methods*, except (c)(1)(A), (B), (C), and (c)(2);
- 18 AAC 50.225 *Owner-Requested Limits*;
- 18 AAC 50.230 *Preapproved Emission Limits*, except (d);
- 18 AAC 50.260 *Guidelines for Best Available Retrofit Technology under the Regional Haze Rule*;
- 18 AAC 50.311 *Nonattainment Area Major Stationary Source Permits*;
- 18 AAC 50.345 *Construction, Minor and Operating Permits: Standard Permit Conditions*, except (b), (c)(3), and (l).
- 18 AAC 50.502 *Minor Permits for Air Quality Protection*;
- 18 AAC 50.540 *Minor Permit: Application*;
- 18 AAC 50.542 *Minor Permit: Review and Issuance*;
- 18 AAC 50.560 *General Minor Permits*; and

- 18 AAC 50.990 *Definitions*.

The listed exceptions were not submitted in the October 25, 2018 submission and are not part of the current federally-approved Alaska SIP.¹ For more information, please see our prior actions on September 19, 2014 (79 FR 56268) and August 14, 2007 (72 FR 45378).

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the provisions set forth below as amendments to 40 CFR part 52. The EPA has made, and will continue to make, these materials generally available electronically through <https://www.regulations.gov> and at the EPA Region 10 office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the Clean Air Act as of the effective date of the final rulemaking of the EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.²

IV. Statutory and Executive Order Review

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve

¹ The excepted provisions implement New Source Performance Standards (NSPS), National Emissions Standards for Hazardous Air Pollutants (NESHAPs), and title V of the Clean Air Act and are not relied on by the state to attain or maintain the NAAQS under Clean Air Act section 110 and the SIP; or are inconsistent with Clean Air Act requirements.

² 62 FR 27968 (May 22, 1997).

state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by

the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 31, 2019.

Chris Hladick,
Regional Administrator,
Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—Alaska

2. In § 52.70, the table in paragraph (c) is amended by revising entries “18 AAC 50.025”, “18 AAC 50.035”, “18 AAC 50.040”, “18 AAC 50.055”, “18 AAC 50.215”, “18 AAC 50.220”, “18 AAC 50.225”, “18 AAC 50.230”, “18 AAC 50.260”, “18 AAC 50.311”, “18 AAC 50.345”, “18 AAC 50.502”, “18 AAC 50.540”, “18 AAC 50.542”, “18 AAC 50.560”, and “18 AAC 50.990” to read as follows:

§ 52.70 Identification of plan.

*	*	*	*	*
(c)	*	*	*	

EPA-APPROVED ALASKA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanations
Alaska Administrative Code Title 18 Environmental Conservation, Chapter 50—Air Quality Control (18 AAC 50)				
18 AAC 50—Article 1. Ambient Air Quality Management				
**	*	**	*	*
18 AAC 50.025	Visibility and Other Special Protection Areas	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
18 AAC 50.035	Documents, Procedures, and Methods Adopted by Reference	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	except (a)(6), (a)(9), and (b)(4).
18 AAC 50.040	Federal Standards Adopted by Reference	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	except (a), (b), (c), (d), (e), (g), (j), and (k).
* * * * *				
18 AAC 50.055	Industrial Processes and Fuel-Burning Equipment	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	except (d)(2)(B).
**	*	**	*	*
18 AAC 50—Article 2. Program Administration				
**	*	**	*	*
18 AAC 50.215	Ambient Air Quality Analysis Methods	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	except (a)(4).
18 AAC 50.220	Enforceable Test Methods	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	except (c)(1)(A), (B), (C), and (c)(2).

18 AAC 50.225	Owner-Requested Limits	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
18 AAC 50.230	Preapproved Emission Limits	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	except (d).
* * * * *				
18 AAC 50.260	Guidelines for Best Available Retrofit Technology under the Regional Haze Rule	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
18 AAC 50—Article 3. Major Stationary Source Permits				
**	*	**	*	*
18 AAC 50.311	Nonattainment Area Major Stationary Source Permits	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
18 AAC 50.345	Construction, Minor and Operating Permits: Standard Permit Conditions	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	except (b), (c)(3), and (l).
**	*	**	*	*
18 AAC 50—Article 5. Minor Permits				
18 AAC 50.502	Minor Permits for Air Quality Protection	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
* * * * *				
18 AAC 50.540	Minor Permit: Application	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	

18 AAC 50.542	Minor Permit: Review and Issuance	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
* * * * *				
18 AAC 50.560	General Minor Permits	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
* * * * *				
18 AAC 50—Article 9. General Provisions				
**	*	**	*	*
18 AAC 50.990	Definitions	9/15/2018	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	
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